

MONTANA LEGISLATIVE HISTORY

Chapter 270 19 99

Bill H 558 S _____ Original bill & history ☒ c

H. Committee on Business & Labor

Hearing Date(s) 2-11 ☒ c

2-12 ☒ c

_____ c

_____ c

Date Out _____ c

S. Committee on Business & Ind.

Hearing Date(s) 3-25 ☒ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HOUSE BILL NO. 558

INTRODUCED BY R. BITNEY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING WHICH PERSONS MAY ENGAGE IN THE CONSUMER LOAN BUSINESS; ESTABLISHING GUIDELINES FOR PREPAYMENT CHARGES ON CONSUMER LOANS; INCREASING THE BAD CHECK CHARGE FROM \$10 TO \$25; MODIFYING WHICH PAST DUE PROVISIONS APPLY TO OPEN-END LOANS; AND AMENDING SECTIONS 32-5-103, 32-5-301, 32-5-407, AND 32-5-506, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-5-103, MCA, is amended to read:

"32-5-103. Engaging in business of making consumer loans restricted. (1) Except as provided in subsection (5), a person may not engage in the business of making consumer loans ~~or advances of money on credit~~ in any amount and contract for, charge, or receive directly or indirectly on or in connection with any loan ~~or advance~~ any charges, whether for interest, compensation, consideration, or expense, except as provided in and authorized by this chapter. A person engaged in business as a licensed pawnbroker may not become a licensee under this chapter. The provisions of this chapter do not apply to any exempted person.

(2) A licensee may sell its business and assets to a bank, building and loan association, savings and loan association, trust company, credit union, credit association, development credit corporation, or bank holding company organized pursuant to state or federal statutory authority and subject to supervision, control, or regulation by an agency of the state of Montana or an agency of the federal government. All contracts for loans and all other contracts entered into by the licensee pursuant to the provisions of this chapter that are sold and transferred to an acquiring organization continue to be governed by the provisions of this chapter.

(3) The provisions of subsection (1) apply to any person who seeks to evade its applications by any device, subterfuge, or pretense.

(4) Any act by a licensee in the making of a contract or in the collection of a loan made under the contract that violates the provisions of this chapter is void. The licensee has no right to collect, receive, or retain any principal, interest, or charges.

(5) A consumer loan licensee or a person who seeks a regulated lender exemption under 31-1-112 as a consumer loan licensee shall fully comply with this chapter. A regulated lender as defined in 31-1-111, other than a consumer loan licensee, or a lender who complies with the provisions of Title 31, chapter 1, part 1, is not required to comply with this chapter."

Section 2. Section 32-5-301, MCA, is amended to read:

"32-5-301. Charges, refunds, penalties, filing fees. (1) ~~Every~~ A licensee or holder of a supplementary license under this part may contract for and receive on any loan of money interest charges as provided under 31-1-112.

(2) Charges in subsection (1) must be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. The charges must be added to the principal of the loan and may not be discounted or deducted from the principal or paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day is considered one-thirtieth of a month.

(3) (a) When any loan contract, new loan, renewal, or otherwise for a period of not more than 61 months is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges that is due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: the amount of the refund or credit must be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.

(b) When any loan contract, new loan, renewal, or otherwise for a period of more than 61 months is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges that is due the borrower that is applicable to all fully unexpired months in the contract as originally scheduled or, if deferred, as deferred, following the date of prepayment. For this purpose the applicable charge is the charge ~~which~~ that would have been earned for that contract if charges had not been precomputed, by applying to the unpaid principal balance, by the actuarial method, the annual percentage rate disclosed pursuant to federal law, based on the assumption that all payments were made as originally scheduled. For all loans that may be subject to this section,

charges are computed initially in the same manner used to determine the annual percentage rate.

(4) If the contract so provides, the additional charge for any amount past due according to the original terms of the contract, whether by reason of default or extension agreement, may be 5% of the amount past due, and that amount may be charged only once.

(5) (a) The licensee may include in the principal amount of any loan:

(i) the actual fees paid a public official or agency of the state for filing, recording, or releasing any instrument securing the loan; or

(ii) the premium for insurance in lieu of filing or recording any instrument securing the loan to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or releasing any instrument securing the loan.

(b) The licensee may include in the principal amount of any loan bona fide charges related to real estate security and paid to third parties, including:

(i) fees or premiums for title examination, title insurance, or similar purposes, including survey;

(ii) fees for preparation of a deed, settlement statement, or other documents;

(iii) fees for notarizing deeds and other documents;

(iv) appraisal fees;

(v) fees for credit reports; and

(vi) fees paid to a trustee for release of a trust deed.

(6) Further or other charges may not be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. A licensee may not divide into separate parts any contract made for the purpose of or with the effect of obtaining charges in excess of those authorized by this chapter. If any amount in excess of the charges permitted by this chapter is charged, contracted for, and received, except as the result of an accidental and bona fide error of computation, the licensee may not collect or receive any charges.

(7) Subsections (2), (3), and (6) of this section apply only to loans on which charges are made on an add-on basis and do not apply to loans on which charges are made on an interest-bearing basis.

(8) If a consumer loan is prepaid in whole or in part for any reason, including after a default, prior to the final payment due date and the amount of prepayment exceeds 10% of the then-outstanding principal balance of the loan, a licensee may charge a prepayment charge as follows:

(a) 10% of the then-outstanding principal balance of the loan if the prepayment occurs during the first 6 months after the date of the loan;

(b) 7% of the then-outstanding principal balance of the loan if the prepayment occurs more than 6 months after the date of the loan, but on or before 18 months after the date of the loan; or

(c) 3.5% of the then-outstanding principal balance of the loan if the prepayment occurs more than 18 months after the date of the loan, but before 61 months after the date of the loan.

(9) A prepayment charge may not be collected if:

(a) the prepayment results solely because of the enforcement of a "due on sale" clause in a real estate mortgage or deed of trust that secures the loan;

(b) the loan provided is prepaid by another loan made by the same licensee or an affiliate of the licensee; or

(c) prepayment occurs as a result of a payment made by a credit life insurance policy or other insurance policy."

Section 3. Section 32-5-407, MCA, is amended to read:

"32-5-407. Attorney fees -- bad check charge. (1) If the contract so provides, reasonable attorney fees may be awarded to the party in whose favor final judgment is rendered in any action on a contract entered into pursuant to the provisions of this chapter.

(2) In addition to any other charges authorized by this chapter, a licensee may charge a borrower the greater of ~~410~~ \$25 or the licensee's actual expense for each check, received in payment of a loan, that is dishonored for any reason."

Section 4. Section 32-5-506, MCA, is amended to read:

"32-5-506. Provisions not applicable. The provisions of ~~subsections (3) and (4) of 32-5-301~~ (3) and the provisions of 32-5-304 do not apply to open-end loans."

- END -

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/07/1999			
(H) Signed by Governor	04/06/1999			
(H) Transmitted to Governor	03/31/1999			
(C) Sent to Printing	03/31/1999			
(S) Signed by President	03/30/1999			
(H) Signed by Speaker	03/30/1999			
(H) Returned from Enrolling	03/29/1999			
(H) Sent to Enrolling	03/29/1999			
(S) Returned to House	03/27/1999			
(S) 3rd Reading Concurred	03/27/1999	46	2	
(C) Sent to Printing	03/27/1999			
(S) 2nd Reading Concurred	03/27/1999	48	0	
(S) Scheduled for 2nd Reading	03/27/1999			
(S) Committee Report--Bill Concurred	03/25/1999			(S) Business and Industry
(S) Committee Executive Action--Bill Concurred	03/25/1999	6	1	(S) Business and Industry
(S) Hearing	03/25/1999			(S) Business and Industry
(S) Referred to Committee	02/22/1999			(S) Business and Industry
(S) First Reading	02/22/1999			
(H) Transmitted to Senate	02/17/1999			
(H) 3rd Reading Passed	02/17/1999	88	11	
(H) Scheduled for 3rd Reading	02/17/1999			
(H) 2nd Reading Passed	02/16/1999	84	14	
(H) Scheduled for 2nd Reading	02/16/1999			
(H) Scheduled for 2nd Reading	02/15/1999			
(H) Committee Report--Bill Passed	02/12/1999			(H) Business and Labor
(H) Committee Executive Action--Bill Passed	02/12/1999	18	0	(H) Business and Labor
(H) Hearing	02/11/1999			(H) Business and Labor
(C) Introduced Bill Text Available Electronically	02/09/1999			
(H) Referred to Committee	02/08/1999			(H) Business and Labor

(H) First Reading	02/08/1999			
(H) Introduced	02/08/1999			
(C) Draft Delivered to Requester	02/05/1999			
(C) Draft Ready for Delivery	02/03/1999			
(C) Draft in Assembly/Executive Director Review	02/02/1999			
(C) Draft in Final Drafter Review	02/02/1999			
(C) Bill Draft Text Available Electronically	02/02/1999			
(C) Draft in Input/Proofing	02/02/1999			
(C) Draft to Drafter/Edit Review (SAB)	02/02/1999			
(C) Draft in Edit	02/02/1999			
(C) Draft in Legal Review	02/02/1999			
(C) Draft to Requester for Review	01/29/1999			
(C) Draft On Hold	01/04/1999			
(C) Draft Request Received	12/31/1998			

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Business and Labor -

01:05 PM

-
- HB 553** SPONSOR: Thomas, Bill SHORT TITLE: Change landscape architecture to a practice act
REFERRED ON: 02/08/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/13/1999 Bill Passed as Amended -- VOTE: 11 - 7
FINAL DISPOSITION 02/17/1999 (H) 2nd Reading Pass Motion Failed; Vote: 31 - 68
-
- HB 556** SPONSOR: Ewer, David SHORT TITLE: Prohibit safety awards for no work comp claims
REFERRED ON: 02/08/1999 HEARD ON: 02/11/1999
TABLED ON: 02/12/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal
-
- HB 557** SPONSOR: Ewer, David SHORT TITLE: Medical privacy for work comp claims
REFERRED ON: 02/08/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/13/1999 Bill Passed as Amended -- VOTE: 18 - 0
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 558** SPONSOR: Bitney, Rod SHORT TITLE: Clarify which persons may engage in the consumer loan business
REFERRED ON: 02/08/1999 HEARD ON: 02/11/1999
EXECUTIVE ACTION: 02/12/1999 Bill Passed -- VOTE: 18 - 0
FINAL DISPOSITION 04/07/1999 Chapter Number Assigned
-
- HB 572** SPONSOR: Squires, Carolyn SHORT TITLE: Revise certain unemployment insurance laws
REFERRED ON: 02/09/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/19/1999 Bill Passed as Amended -- VOTE: 10 - 8
FINAL DISPOSITION 02/22/1999 (H) 2nd Reading Pass Motion Failed; Vote: 45 - 53
-
- HB 581** SPONSOR: Cobb, John SHORT TITLE: Generally revise the Montana small business purchasing act
REFERRED ON: 02/10/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/13/1999 Bill Passed as Amended -- VOTE: 18 - 0
FINAL DISPOSITION 04/07/1999 Chapter Number Assigned
-
- HB 592** SPONSOR: Hibbard, Chase SHORT TITLE: Revise employment laws
REFERRED ON: 02/11/1999 HEARD ON: 02/16/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed as Amended -- VOTE: 18 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 11, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 427, HB 526, HB 558, HB 529, HB 556, 2/8/1999

Executive Action:

{Tape : 2; Side : A; Approx. Time Counter : 0 - 17}

Questions from Committee Members and Responses: Reps. Pavlovich, Lawson, Barnett, Squires, Juneau, Tuss, Bookout, McKenney, Krenzler and Simon question witnesses.

{Tape : 2; Side : A; Approx. Time Counter : 17 - 412}

Closing by Sponsor: Rep. Bergslagel closed.

{Tape : 2; Side : A; Approx. Time Counter : 412 - 500}

HEARING ON HB 526

Opening Statement by Sponsor: Rep. Mangen, HD 45 introduced HB 526. EXHIBIT(15)

{Tape : 2; Side : B; Approx. Time Counter : 0 - 176}

Proponents' Testimony: Senator J D Lynch, Butte

{Tape : 2; Side : B; Approx. Time Counter : 176 - 207}

Birney Harrington, store owner of Miles City

{Tape : 2; Side : B; Approx. Time Counter : 207 - 231}

Don Hutchinson, Div of Banking, Dept of Commerce

{Tape : 2; Side : B; Approx. Time Counter : 231 - 261}

Opponents' Testimony: Gary Hughes

{Tape : 2; Side : B; Approx. Time Counter : 261 - 264}

Questions from Committee Members and Responses: Reps. Squires, Stovall, Lawson, McKenney, Sliter, Tuss and Simon questions witnesses.

{Tape : 2; Side : B; Approx. Time Counter : 264 - 500}

{Tape : 3; Side : A; Approx. Time Counter : 0 - 100}

Closing by Sponsor: Rep. Mangen closed. HB 526

{Tape : 3; Side : A; Approx. Time Counter : 100 - 140}

HEARING ON HB 558

Opening Statement by Sponsor: Rep. Bitney HD 77 introduced HB 558.

{Tape : 3; Side : A; Approx. Time Counter : 140 - 176}

Proponents' Testimony: Jerry Lindorf, Mt. Consumers Loan Assn.

{Tape : 3; Side : A; Approx. Time Counter : 176 - 183}

Dennis Green, Pres. MT Consumers Finance Groups

{Tape : 3; Side : A; Approx. Time Counter : 183 - 192}

Don Hutchinson, Dept of Commerce,

{Tape : 3; Side : A; Approx. Time Counter : 192 - 195}

Opponents' Testimony: None

Questions from Committee Members and Responses: Rep. Bookout and McKenny question Commissioner.

{Tape : 3; Side : A; Approx. Time Counter : 195 - 309}

Closing by Sponsor: Rep. Bitney closed.

{Tape : 3; Side : A; Approx. Time Counter : 309 - 330}

HEARING ON HB 529

Opening Statement by Sponsor: Rep. Juneau introduced HB 529.

EXHIBIT(16) EXHIBIT(17) EXHIBIT(18) EXHIBIT(19)

{Tape : 3; Side : A; Approx. Time Counter : 330 - 430}

Proponents' Testimony: Lance Melton, Montana School Board Assn.

{Tape : 3; Side : A; Approx. Time Counter : 430 - 472}

David Ewer

{Tape : 3; Side : A; Approx. Time Counter : 472 - 499}

Bill Cooper, Dep. Supt. OPI

{Tape : 3; Side : A; Approx. Time Counter : 499 - 506}

Salish Kootenai Tribe members. EXHIBIT(20)

{Tape : 3; Side : A; Approx. Time Counter : 506 - 515}

Steve Brady, Lame Deer High Students.

{Tape : 3; Side : B; Approx. Time Counter : 0 - 108}

Opponents' Testimony: None

Questions from Committee Members and Responses: Rep. Barnett, and Bitney question witnesses.

{Tape : 3; Side : B; Approx. Time Counter : 56 - 180}

Closing by Sponsor: Rep. Juneau closed HB 529

{Tape : 3; Side : B; Approx. Time Counter : 180 - 221}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 12, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 581, HB 553, HJR 24, HB 557, HB 572, 2/10/1999
Executive Action: HB 557, HB 581, HJR 24, HB 100, HB 514, HB 526, HB 558, HB 556, HB 553, HB 497

Motion/Vote: REP. TUSS moved that HB 514 BE AMENDED. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 272 - 318}

Motion/Vote: REP. TUSS moved that HB 514 DO PASS AS AMENDED. Motion carried 13-5 with Bitney, Brown, Lawson, Sliter, and Stovall voting no.

{Tape : 3; Side : A; Approx. Time Counter : 318 - 410}

EXECUTIVE ACTION ON HB 526

Motion/Vote: REP. TUSS moved that HB 526 DO PASS. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 410 - 461}

EXECUTIVE ACTION ON Y2K

Motion/Vote: REP. SLITER moved that Y2K RESOLUTION DO PASS. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 461 - 500}

{Tape : 3; Side : B; Approx. Time Counter : 0 - 17}

EXECUTIVE ACTION ON HB 558

Motion/Vote: REP. BITNEY moved that HB 558 DO PASS. Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 17 - 44}

EXECUTIVE ACTION ON HB 556

Motion: REP. EWER moved that HB 556 DO PASS.

{Tape : 3; Side : B; Approx. Time Counter : 44 - 48}

Motion: REP. EWER moved that HB 558 BE AMENDED. Ewer withdrew amendments.

{Tape : 3; Side : B; Approx. Time Counter : 48 - 50}

Motion/Vote: REP. TREXLER moved that HB 556 BE TABLED. Motion carried 10-8 with Bookout-Reinicke, Ewer, Juneau, Krenzler, Matthews, Pavlovich, Squires, and Tuss voting no.

{Tape : 3; Side : B; Approx. Time Counter : 50 - 99}

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Business and Industry -

04:37 PM

-
- HB 522** SPONSOR: Pavlovich, Bob SHORT TITLE: Clarify between in-state & out-of-state beer sale laws
REFERRED ON: 02/22/1999 HEARD ON: 03/10/1999
EXECUTIVE ACTION: 03/10/1999 Bill Concurred -- VOTE: 6 - 0
FINAL DISPOSITION 03/30/1999 Chapter Number Assigned
-
- HB 523** SPONSOR: McKenney, Joe SHORT TITLE: Clarify qualified privilege for mand. rept'ng of emply'mt info by broker-dealers
REFERRED ON: 02/22/1999 HEARD ON: 03/23/1999
EXECUTIVE ACTION: 03/23/1999 Bill Concurred -- VOTE: 5 - 0
FINAL DISPOSITION 04/07/1999 Chapter Number Assigned
-
- HB 526** SPONSOR: Mangan, Jeff SHORT TITLE: Create a Montana deferred deposit loan act to be administered by the DOC
REFERRED ON: 02/23/1999 HEARD ON: 03/11/1999
EXECUTIVE ACTION: 03/11/1999 Bill Concurred as Amended -- VOTE: 5 - 0
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-
- HB 557** SPONSOR: Ewer, David SHORT TITLE: Medical privacy for work comp claims
REFERRED ON: 02/22/1999
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 558** SPONSOR: Bitney, Rod SHORT TITLE: Clarify which persons may engage in the consumer loan business
REFERRED ON: 02/22/1999 HEARD ON: 03/25/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred -- VOTE: 6 - 1
FINAL DISPOSITION 04/07/1999 Chapter Number Assigned
-
- HB 581** SPONSOR: Cobb, John SHORT TITLE: Generally revise the Montana small business purchasing act
REFERRED ON: 02/22/1999 HEARD ON: 03/25/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred -- VOTE: 7 - 0
FINAL DISPOSITION 04/07/1999 Chapter Number Assigned
-
- HB 598** SPONSOR: Quilici, Joe SHORT TITLE: Revise telephone slamming and cramming laws
REFERRED ON: 02/22/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/18/1999 Bill Concurred -- VOTE: 7 - 0
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 25, 1999 at
8:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 641, 3/10/1999
HB 558, 3/10/1999
HB 581, 3/10/1999
Executive Action: HB 641; HB 558; 581

{Tape : 1; Side : A; Approx. Time Counter : 0}

I do have an amendment **EXHIBIT(1)**. It puts the word "plumbing" into line 30, on page 1. The reason to put this word in is that there might be some effort to put these people under the mechanical section. The mechanical section does not deal with plumbing and would then be under air conditioning, ventilation, etc. which is not the same thing. It is important that this be done well for all concerned. It is important also for a plumber to have this documentation on his license. Thank you.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. SQUIRES closed. I would like to submit a letter **EXHIBIT(2)** from Duane Steinmetz, Board Chairman of the Professional and Occupational Licensing Division. He refers to the amendment and the rationale for it. If fees are needed that can be done.
SEN. COCCHIARELLA will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 5.9}

HEARING ON HB 558

Sponsor: REP. ROD BITNEY, HD 77 KALISPELL

Proponents: Jerry Lendorf, MT Consumer Finance Assoc.
Dennis Green, President, Budget Finance; President,
MT Consumer Finance Assoc.
Don Hutchinson, Banking & Financial Division,
Department of Commerce

Opponents: Craig Sweet, MT PIRG

Opening Statement by Sponsor:

I bring a short bill for you today. **HB 558** makes several changes to the Montana Consumer Loan Act. The first change is on page 1,

lines 14 and 15. The words "or advances of money on credit" are deleted from the existing law. The reason for this change is to make it clear that the Consumer Loan Act applies only to consumer loans. Section 2, page 4 places certain limits on prepayment charges that may be made by consumer loan companies. The limits decrease over the period of the loan. Section 3 allows a bad check charge in the amount of \$25. Section 4, permits a late fee charge in the amount of 5% of the amount past due to be charged in the case of open end loans.

Proponents' Testimony:

Jerry Lendorf, MT Consumer Finance Assoc. In addition to limiting prepayment charges, it still cites three situations in which prepayment charges may not be charged. (1) If you have ever sold a home, you have a "due on sale" clause. (2) This is where prepayment is made as a result of a loss and would collect insurance for that loss or by a credit life insurance policy. (3) This is for a refinancing situation with the same institution. In addition to that, it allows a bad check charge of \$25 and would allow a 5% charge to be made in case of late payments on open end loans. That is the same charge that is now made on closed end loans. Thank you.

Dennis Green, President, Budget Finance; President, MT Consumer Finance Assoc. I would like to add my support to this bill. Thank you.

Don Hutchinson, Banking & Financial Division, Department of Commerce. We have worked with the industry and agree with and support this bill. Thank you.

Opponents' Testimony:

Craig Sweet, MT PIRG. We appreciate the fact that this bill does set some limits on prepayment charges. I do understand that there are higher prepayment charges being used. However, we think it is anti-consumer and does penalize a consumer who does prepay a loan. We urge a do not pass.

{Tape : 1; Side : A; Approx. Time Counter : 9.7}

Questions from Committee Members and Responses:

SEN. SPRAGUE asked **Mr. Sweet** to explain his previous statement. **Mr. Sweet** said that he was talking about Section 2, (8) concerning prepayment and the charges that can be assessed. He was concerned that this might be an added burden to the consumer. But it does set some limits. He was not sure exactly what the bill did.

SEN. SPRAGUE asked **Don Hutchinson** if this bill were authorizing an increase in the minimum payment that can be charged to handle the loan even if it is paid off early? **Mr. Hutchinson** said the original act that preceded this bill allowed lending companies to charge for prepayment of loans. There was no provision outlined in that act concerning how much they could charge for prepayments. We asked the industry to define those charges. The charges are on a decreasing scale, i.e. 10% for prepayment during the first 6 months; 7% for prepayment after 6 months and before 18 months; and 3.5% for prepayment after 18 months but before 61 months after the date of the loan. And there would be nothing after five years or 61 months. This would be on the then-outstanding principal balance of the loan.

SEN. SPRAGUE asked if the consumer would know, up front, what the charges would be if they prepaid their loan early. **Mr. Hutchinson** said that it would be in the loan papers and disclosed again when the note is signed. **SEN. SPRAGUE** said that the bill would make everyone charge the same thing and not float up and down at their own discretion. **Mr. Hutchinson** said "yes" and it is capped. If a person refinances with the original lender, that lender is not allowed to charge a prepayment fee.

SEN. SPRAGUE asked about the \$25 charge for a check that is dishonored for any reason. **Mr. Hutchinson** said there are already some who charge \$25 for a bad check.

SEN. COCCHIARELLA asked who the licensee is. **Mr. Hutchinson** said they are consumer finance lenders. They are required to be licensed with the Department of Commerce. **SEN. COCCHIARELLA** asked if it included General Motors Acceptance Corporation (GMAC) financing which is out of state? **Mr. Hutchinson** said "yes". **SEN. COCCHIARELLA** wondered why a car dealer would not make a lower deal for cash but would if the consumer would take out a

loan to pay for the car. Would this bill help these companies to charge a prepayment fee? **Mr. Hutchinson** said a person always has the choice to pay in cash. In the situation you outlined, that person is being conned for lack of a better word. People are paid to write contracts and add insurance, etc. But if a person does sign up for this and goes back and pays it off early, they could be subject to a prepayment penalty. **SEN. COCCHIARELLA** gave another example of borrowing money for a day and still having to pay a prepayment penalty. **Mr. Lendorf** said that is correct. Under current law, though, there are no caps in place and that lending company can charge whatever they want for a prepayment. Also, when a contract is written, there are costs involved and a prepayment charge covers those costs. If you kill this bill, then there are no restrictions on what can be charged. Right now, there is someone out there charging a straight 10% in all situations. This bill would stop that.

SEN. HERTEL asked if all contracts have prepayment clauses? **Mr. Lendorf** said just about all contracts have a provision with regard to prepayment.

{Tape : 1; Side : A; Approx. Time Counter : 20.9}

SEN. BERRY asked what is a consumer loan. **Mr. Lendorf** replied personal, family and household is but consumer loan companies make, what they call, unregulated loans. There is a federal law that doesn't permit the state to regulate housing loans, first residential mortgage, etc. How they get jurisdiction in that area is rather tenuous. They tie it to the credit insurance one buys at the time. There is some federal relationship to that.

SEN. BERRY asked if savings and loans, that do open end business loans, would fall in this category. **Mr. Lendorf** said savings and loans are regulated under other statutes and this bill would not affect them.

SEN. HERTEL said that with the word "may", companies then may or may not charge a prepayment penalty, is that correct? **Mr. Lendorf** said "yes". The hard part is when you put ceilings in. In certain situations, more is justified. Right now, the market regulates it. Some could charge 25% if they wanted to. **SEN. HERTEL** then stated that this bill is putting a cap on the charge.

SEN. COCCHIARELLA asked how many companies charge a fee for prepayment. Mr. Lendorf said Mr. Green's company, Budget Finance, doesn't charge a fee for prepayment. Beneficial does not charge for prepayment. Companies like Norwest do.

SEN. COCCHIARELLA asked if this bill passes will he start charging a fee for prepayment. Mr. Green said he didn't think so. But, again, under present law he could charge a fee and charge whatever he felt the market would bear. The purpose of this bill is to cap that charge.

SEN. SPRAGUE asked if this bill would affect the deferred deposit loan companies. Mr. Hutchinson said that in this session there was a bill to license those people. They are not under this bill.

Closing by Sponsor:

REP. BITNEY closed. Thank you for a good hearing. In the market place there are many different types of loans and programs available. The consumer does have an opportunity to check around. This bill is for the consumer. We are concerned with Mr. Sweet's concerns, but I think they have been addressed. As was mentioned, there are no limits under current law. This will establish some limits and also puts it on a declining scale based on the longevity of the loan. It is just a percentage of the payoff of the balance of the loan. SEN. HERTEL will carry the bill on the Senate Floor.

HEARING ON HB 581

Sponsor: REP. JOHN COBB, HD 50, AUGUSTA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, AUGUSTA. This bill revises the Montana Small Business Purchasing Act. It is an Act that has been around since the 1930's where the Department of State Government could set aside for small businesses some business they could bid on. It has not been used for years. Some reasons why the Departments have not used it is because of the bidding process. They have to put a notice in the paper. They must get bids from at least three small businesses. They just have never done it. I took off the notice to newspapers and the Department can set aside some business for small Montana businesses, etc. The language is cleaned up. This bill will continue to the year 2003. If the bill is not used or working by that time, it will go out of existence at that time.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. COBB closed. SEN. COCCHIARELLA will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 32}

EXECUTIVE ACTION ON HB 558

Motion/Vote: SEN. BERRY moved that HB 558 BE CONCURRED IN.
Motion carried 6-1 with SEN. COCCHIARELLA voting no.

SEN. HERTEL will carry the bill on the Senate Floor.